

REGULATIONS GOVERNING THE MONITORING, APPROVAL
AND CERTIFICATION ~~PROCESS~~ OF JUVENILE JUSTICE PROGRAMS

6 VAC 35-20-10. Definitions.

The following words and terms when used in this chapter shall have the following meaning, unless the context clearly indicates otherwise:

"Administrative probation" means the status granted to a program or facility in an emergency situation at the discretion of the director pending the next regularly scheduled board meeting.

"Administrative review" means the audit of the administrative records of a local jurisdiction or governing commission. The administrative review involves only a review of documentation housed at a central office.

"Appeal" means the action taken by a unit, facility or program administrator after an audit when there is disagreement with a team finding of noncompliance.

"Appropriate regional administrator" or "chief" means the regional administrator, Chief of Operations for Learning Centers or Chief of Operations for Community Funding responsible for planning, implementing, coordinating, monitoring and evaluating the program in question.

"Board" means the Virginia Board of ~~Youth and Family Services (BYFS)~~ Juvenile Justice.

"Certification" means the board's formal finding that a program meets (i) all mandatory

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standards; (ii) an acceptable percentage of all other standards as indicated in the chart at 6 VAC 35-20-100; and (iii) the requirements of applicable Board policies; and is consequently approved to operate for a specific period of time.

~~"Certification audit report" means the report prepared for review by the board.~~

~~"Certification inspector" means a staff member of the DYFS Certification Unit who serves as the chairperson of the certification team. This person is referred to as team leader.~~

~~"Certification status" means the three year period of time during which the program must maintain its standards compliance levels and have acceptable plans of action.~~

~~"Certification team" means those persons designated by the Department of Youth and Family Services to conduct compliance audits, including the Certification Inspector.~~

~~"Certification training" means training provided by the certification unit for prospective team members or facility staff in need of audit preparation assistance.~~

~~"Certification unit" means the organizational unit of the Department of Youth and Family Services responsible for organizing and facilitating inspections of programs funded by the department.~~

~~"Certification unit manager" means that person employed by the Department of Youth and Family Services responsible for the administration of the certification unit.~~

~~"Certified" means that a program has achieved an acceptable level of compliance with standards promulgated by the board.~~

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~~"Chief of Operations for Community Funding" means the individual responsible for the planning, implementing, coordinating, monitoring and evaluating of the DYFS funding of locally or privately operated community programs.~~

~~"Chief of Operations for Information and Evaluation" means that individual employed by the Department of Youth and Family Services accountable for the administration of information and evaluation.~~

~~"Chief of Operations for Learning Centers" means that individual employed by the Department of Youth and Family Services accountable for the administration and operation of learning centers.~~

~~"Complaint" means a report of a problem or concern made by staff, clients, parents or guardians, other agencies or the general public about a facility or program certified by the Board of Youth and Family Services.~~

~~"Compliance" means meeting the requirements of a standard.~~

~~"Compliance Certification audit" means an on-site review investigation by a certification team of designated personnel to assess a program's compliance with applicable board standards and policies, promulgated by the board, the results of which are reported to the board for certification action.~~

~~"Compliance documentation" means those records, reports, pictures, blueprints, observations and interviews required to verify a program's adherence to standards.~~

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~~"Decertification Decertified"~~ means that a previously certified ~~the Board of Youth and Family Services has determined that a program has~~ does not meet a minimum meet the requirements to be certified acceptable level of compliance with standards and is no longer approved to operate.

"Deficiency" and "noncompliance" means that the program does not meet, or has not demonstrated that it meets, the requirements of a board standard or policy or does not comply with the Virginia Juvenile Community Crime Control Act local plan approved by the board.

~~"Department"~~ means the Virginia Department of ~~Youth and Family Services (DYFS)~~ Juvenile Justice.

~~"Deputy Director for Programs"~~ means ~~the individual employed by the Department of Youth and Family Services, and designated by the director as the administrator of program operations and funding.~~

~~"Deputy Director for Administration and Finance"~~ means ~~the individual employed by the Department of Youth and Family Services, and designated by the director as responsible for the management of administrative and financial operations.~~

~~"Director"~~ means ~~the Director of the Department of Youth and Family Services.~~

~~"Interim audit"~~ means ~~an audit that occurs by special order of the board or the director.~~

~~"Interim certification report"~~ means ~~the program's verification of continued compliance with the standards.~~

~~"Life, health, safety standards (LHS) violation"~~ means any action or omission that results in non-

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compliance with a board standard or policy ~~those standards related~~ and causes an immediate and potentially serious threat to the life, health or safety of the youth ~~and~~ or staff in a residential program ~~as defined by the board that must be maintained in 100% compliance at all times.~~

"Mandatory standards" means those standards of performance for ~~nonresidential~~ programs as defined by the board which must be maintained in 100% compliance at all times.

"Monitoring visit" means an on-site review by designated personnel to assess a program's compliance with board-approved standards, policies and, when applicable, Virginia Juvenile Community Crime Control Act local plan.

"Newly opened facility" means both (i) a facility that is newly constructed and (ii) an existing facility that is being placed in service as a residential program.

~~"Not applicable standards" means standards which are not relevant to the program because of the structure of the program or the services it provides.~~

"Plan of action" means a written document ~~which~~ that explicitly states what has been or will be done to bring all deficiencies into compliance with board standards and policies.

~~"Preparatory audit" means an on-site review of a new program by regional office staff prior to an audit by a certification unit staff member to provide guidance in audit documentation and standards compliance.~~

~~"Probationary status" means the temporary status granted to a program by the Board of Youth and Family Services to provide a period of time in which to come into compliance with~~

standards.

"Program" means a juvenile residential facility or a non-residential service subject to standards or policies of the board.

~~"Program administrator" means the staff member responsible for the operation of a program, facility or institution.~~

~~"Quality of life and services statement" means the portion of the audit report to the board which describes issues regarding staff (such as motivation, commitment to the program, personal development, interaction between staff and clients and team work), the building (such as suitability of building and furnishings for program and population, provisions for privacy, maintenance, safety); and program (such as use of community resources, community interaction, interagency cooperation, individualized treatment).~~

"Random sampling" means a system for selecting programs for monitoring visits, by which all programs in a given category have a similar likelihood of being selected for a visit, but which may not result in any given program receiving a monitoring visit during any given period of time.

~~"Regional administrator" means the individual responsible for the direction of activities in a designated area in the Commonwealth to include planning, implementing, coordinating, monitoring, and evaluating DYFS and DYFS utilized programs.~~

~~"Regional office staff" means those individuals assigned to a particular regional office~~

~~responsible for assisting the regional administrator in the duties described above.~~

~~"Related professional agencies" means any unit within the Department of Youth and Family Services or any public or private agency, which serves a similar clientele or provides services similar to those of the program to be certified.~~

~~"Substantial compliance" means that the program meets all applicable mandatory standards and at least 90% of all other applicable standards.~~

~~"Standard Systemic deficiency" means that the performance of a unit, facility or program, or evidence supporting this performance, is insufficient to meet the requirements of a standard deficiencies have been found in three or more separate but related standards and have been cited by certification personnel as indicating that a program may have significant problems in a given area.~~

~~"Suggested compliance determination list" means a list of suggested documents or information sources which can be used to verify compliance with a standard.~~

~~"Unannounced interim visits" means periodic visits to a facility to monitor compliance with standards.~~

~~"Variance" means a decision by the Board board of Youth and Family Services to relieve action that relieves a program of from having to meet a specific standard or develop a plan of action for a specified that standard, either permanently or for a determined period of time, when (i) waiving these requirements will not result in a threat to the life, health or safety of juveniles or staff; (ii)~~

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enforcement will create an undue hardship; (iii) the standard is not specifically required by statute or by the regulations of another government agency; (iv) the standard is not designated as mandatory by the Board; and (v) juveniles' care or services would not be adversely affected.

6 VAC 35-20-20. Legal Basis in the Code of Virginia References.

Code of Virginia:

§ 16.1-233. Department to develop court services,....appointment and removal of employees, salaries.

§ 16.1-234. Duties makes it a duty of Department the department...(to insure that local court service units adhere to minimum standards are adhered to) established by the board.

§ 16.1-249 requires that certain places of confinement for juveniles, including detention homes and group homes, be approved by the department.

§ 16.1-309.9 (A) directs and authorizes the Board of Juvenile Justice to develop, promulgate and approve standards for the development, implementation, operation and evaluation of the range of community-based programs, services and facilities authorized by the Virginia Juvenile Community Crime Control Act, and to approve minimum standards for detention homes and other facilities.

§ 16.1-309.9 (B) states that "the State Board may prohibit, by its order, the placement of juveniles in any place of residence which does not comply with the minimum standards. It may limit the number of juveniles to be detained or housed in a detention home or other facility and

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may designate some other place of detention or housing for juveniles who would otherwise be held therein."

§ 16.1-309.9 (C) directs the department to periodically review all services established pursuant to the Virginia Juvenile Community Crime Control Act and annually review expenditures to determine compliance with the approved local plans and operating standards; if a program is not in substantial compliance with the approved plan or standards, the department may suspend all or any portion of financial aid made available to the locality until there is compliance.

§ 16.1-309.10 provides that the board or its agents may visit, inspect and regulate any detention home, group home or other residential care facility for children who are in need of services, delinquent or alleged delinquent.

~~§16.1-311. Board to prescribe certain standards; how order of board enforced.~~

~~§16.1-312. Visitation and management of detention homes.~~

~~§66-10 (4) authorizes the Board board to adopt regulations for the operation of halfway houses monitor the activities of the department and its effectiveness in implementing the policies of the board.~~

~~§66-28. Board to adopt standards for Delinquency Prevention and Youth Development Act Programs.~~

Part II

Administration

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6 VAC 35-20-30. ~~Legal base and history~~ Purpose.

~~Section 66-10 of the~~ This regulation prescribes how, in accordance with Code of Virginia Sections 66-10, 16.1-234, 16.1-349, 16.1-309.1, 16.1-309.9.B, and 16.1-309.10, ~~requires the Board and Department of Youth and Family Services Juvenile Justice to prescribe program standards and to~~ will monitor the activities of the department in implementing the standards. and approve residential and nonresidential programs that are part of the Commonwealth's juvenile justice system.

~~This chapter replaces and supersedes Department of Corrections Regulations Governing the Certification Process, 6 VAC 15-20-10 et seq.~~

6 VAC 35-20-35. Guidance documents.

To help programs meet all regulatory and policy requirements, the department shall prepare guidance documents compiling all standards and policies applicable to each type of program and stating how compliance will be assessed. The guidance documents will serve as the basis for monitoring visits, certification audits, and the board's certification action.

6 VAC 35-20-37. Director's authority to take immediate administrative action.

Nothing in this regulation shall be construed to limit the Director's authority to take immediate administrative action in accordance with law whenever (i) evidence is found of any life, health or safety violation or (ii) a program is not in substantial noncompliance with board-approved standards, policies, or local plan for Virginia Community Crime Control Act programs. Such

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administrative action may include, but is not limited to (a) withholding funds; (b) removing juveniles from the program; or (c) placing the program on administrative probation for up to six months pending certification action by the board. In taking such action, the department shall notify both the program and the board, in writing, of the reason for the administrative action, and the action the program must take to correct the situation.

~~6 VAC 35-20-40. Effective date. [Repealed. This information is required in introductory material.]~~

~~These regulations shall become effective on September 9, 1992.~~

Part III

Audits

~~6 VAC 35-20-50. Preaudit process. [Repealed.] [To be addressed in department procedures]~~

~~A. The certification unit manager shall develop a compliance audit schedule to cover a one year period for dissemination to affected programs and staff.~~

At least six months in advance of an audit, personnel designated by the Director shall notify each program to be audited of the scheduled audit date.

Requests for rescheduling the compliance audit may be granted by the certification unit manager, provided the program requests the schedule change 90 days prior to the scheduled audit. Up until 90 days before the scheduled audit, the program administrator may request that the audit be rescheduled . Except as provided in 6 VAC 35-20-100, [a]udits, even if rescheduled, must occur

before the expiration of the current certification.

~~B. Certification team members shall be appointed and notified of their appointment in writing by the appropriate regional administrator or the chief. Team members shall have completed certification training and shall be approved by the certification unit manager and the director or designee. The appropriate regional administrator or the chief shall be informed at least 10 days prior to the audit of any unacceptable team members. The appropriate regional administrator or chief shall be responsible for finding a replacement within five days of the audit and notifying the certification unit manager of that replacement.~~

B. At least 10 days prior to the scheduled audit, the program administrator may, for just cause, request that one or more members of the audit team be replaced. Every reasonable effort will be made to comply with the request.

~~C. The program administrator of the agency to be audited shall receive a list of team members and shall have the right to request alternate team members. The request shall be in writing and shall be approved by the appropriate regional administrator or chief assigning the team member. The appropriate regional administrator or chief shall be responsible for finding a replacement for the team member if approved.~~

~~D. The certification unit inspector shall notify the program administrator in writing at least 60 days in advance of the audit.~~

~~E. The certification inspector shall visit the program administrator prior to the audit to discuss the compliance audit process and procedures. Exceptions to this previsit shall be approved by the~~

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~~certification unit manager.~~

~~F. In instances where several programs are operated under the administration of a single commission, the certification unit manager and the program administrator may agree to an administrative review audit.~~

6 VAC 35-20-60. ~~Frequency of audits~~ Monitoring visits.

~~A. All state and local facilities, programs~~ subject to standards issued by the Board of Juvenile Justice and units operated by or affiliated with the Department of Youth and Family Services shall be audited every three years by the certification unit or a designee of the unit. ~~More frequent audits may occur as required by the board~~ subject to periodic monitoring visits, scheduled and conducted in accordance with written department procedures. Whenever it deems it necessary, the board may require that a monitoring visit be conducted of any program.

~~B. All programs referenced in subsection A shall receive announced or unannounced documented interim audits by regional office staff or staff of the appropriate chief at least once every six months. More frequent audits may occur as required. The department shall annually submit to the board a plan for monitoring programs which shall provide for at least the following:~~

1. All residential programs, court service units and offices on youth shall receive at least one announced monitoring visit per year. A certification audit may satisfy the requirement of a scheduled monitoring visit. In addition, all residential programs and

court service units shall receive at least one unannounced monitoring visit per year.

2. All nonresidential programs established under the Virginia Juvenile Community Crime Control Act (Article 12.1 of Title 16.1 of the Code of Virginia) shall be reviewed at least once every two years to determine compliance with the approved local plans and standards promulgated by the board.

3. Individual nonresidential programs shall receive monitoring visits according to the department's annual plan, which may provide for random sampling of programs in various categories. However, during each calendar year at least one non-residential program in each VJCCCA plan shall receive a monitoring visit.

6 VAC 35-20-63. Reports of monitoring visits. KEN

At each regular meeting of the board, the department shall report to the board in writing all programs receiving monitoring visits since the last report and any significant areas where a program has failed to address needed corrective action.

6 VAC 35-20-65. Reports required of life, health and safety violations.

A. Whenever department personnel become aware of a life, health or safety violation, the department shall report to the board no later its next regularly scheduled meeting: (i) the nature and scope of the violation, and (ii) the action taken by the department or the program to correct the deficiency, which may include but is not limited to administrative probation, removal of residents, or suspension of funding.

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B. When a life, health safety violation has not been adequately corrected, the Board may take certification action up to and potentially including decertification.

6 VAC 35-20-67. Disputes of non-compliance findings.

Any program that is cited for non-compliance with board-approved standards, policies or local VJCCCA plan may:

1. request a variance in accordance with 6 VAC 35-20-90, parts (7) and (8); or
2. appeal the finding, in writing, within 10 days of receiving notice of the finding, in accordance with department procedures and 6 VAC 35-20-94.

~~C. Exceptions to the frequency of audits as stated above shall be granted for the following reasons:~~

6 VAC 35-20-69. New construction, expansion or renovation of residential programs

- ~~1. When a new program opens it shall undergo a documented preparatory audit by regional office staff or staff of the appropriate chief during the first six months of operation. A compliance audit shall be conducted between the sixth and twelfth month of operation as arranged by the certification unit manager and every three years thereafter. More frequent audits may occur as required by the board.~~

A. New construction, expansions and renovations in all juvenile residential programs, whether or not the facility or its sponsor is seeking reimbursement for construction or operations, shall conform to applicable provisions in the board's Regulations for Local Juvenile Residential

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Facility Construction and Reimbursement of Local Construction Costs (6 VAC 35-30-10 et seq.), Standards for Interagency Regulation of Children's Residential Facilities (22 VAC 42-10 et seq.). In addition, the department shall consider the facility's degree of compliance with the Guidelines for Minimum Standards in Design and Construction of Juvenile Facilities.

B. The department shall not approve the housing of juveniles in a newly opened facility if the facility does not meet the requirements for a conditional certification as provided in the table at 6 VAC 35-20-100.

C. The department shall not approve the housing of juveniles in any portion of a facility that has been modified through expansion or renovation, until designated department staff visit the facility and verify that:

1. the facility or applicable portion thereof complies with all applicable mandatory standards and physical plant standards; and
2. the current certification issued by the board is appropriate to the status of its program and construction.

~~2. Exceptions to the required frequency of audits may be granted when circumstances beyond the control of the program staff prohibit compliance with the standards (for example, natural disaster). In no case shall the audit be postponed for more than six months after the original audit date.~~

~~6 VAC 35-20-70. Agency narrative. [Repealed]~~

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~~No later than 30 days prior to the audit, the agency/program administrator shall submit a written description of the program to be audited.~~

6 VAC 35-20-75. Certification of individual programs.

A. The board shall individually certify all juvenile residential facilities, court service units and offices on youth.

B. The department shall schedule and conduct certification audits in sufficient time for the board to take action on the audit report before a program's current certification expires. The Department shall publish procedures for naming audit team members, conducting on-site audits, determining compliance, conducting exit interviews, reviewing and approving corrective plans of action, and instructing programs how to request variances or appeal findings. ~~In the case of newly opened facilities a full certification audit shall be conducted no later than six months after the first juvenile is placed in the program.~~

C. Upon the completion of the audit, the certification audit findings shall be reported to the program's administrator and sponsor and to appropriate department personnel. The program administrator or sponsor may appeal any of the certification audit findings in accordance with department procedures which shall specify (i) the timeframes for filing the appeal and for the Department's response; and (ii) the Department personnel responsible for considering the appeal.

D. Appeals of audit findings that cannot be resolved by the department shall be forwarded to the board for resolution as provided in 6 VAC 35-20-94.

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E. Designated department personnel shall review and approve plans of action to address deficiencies identified in the audit report, and summaries of the approved plans of action shall be forwarded to the board along with the audit report.

F. Requests for variances shall be forwarded to the board along with the department's recommendation to approve or disapprove the variance.

~~6 VAC 35-20-80. On-site audit procedures. [Repealed]~~

~~A. On-site audit procedures shall include the following:~~

~~1. Program administrator interview.~~

~~2. Facility tour.~~

~~3. Team orientation.~~

~~4. Data gathering.~~

~~5. Team voting on standards compliance.~~

~~6. Assessment and discussion of quality of life issues.~~

~~7. Prebriefing with the program administration to discuss audit findings.~~

~~8. Debriefing to inform program staff of audit findings.~~

~~B. Evidence of proof of compliance.~~

~~1. The burden of providing evidence of proof of compliance with standards rests with the~~

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~~program staff. Documentation created once the audit has begun shall not be accepted.~~

~~2. It is permissible to provide additional documentation should the certification team request it; however, such documentation shall already exist when the audit begins. Once the audit is concluded, an agency cannot bring itself into compliance with a standard for the purpose of changing the compliance rating for that standard. The changes become part of the program's plan of action.~~

~~3. The certification unit manager, the appropriate regional administrator or the chief where appropriate, and the director or designee shall be informed immediately of any serious problems or issues revealed to the team.~~

6 VAC 35-20-90. Certification audit reports.

~~A. Post reporting process.~~

~~1. A report of the team's findings shall be submitted within 10 working days following the compliance audit to the program administrator and the appropriate regional administrator or the chief of operations for learning centers where appropriate.~~

~~2. The program administrator may respond to the findings described in the report in one of three ways:~~

~~a. Submit a plan of action as described below.~~

~~b. Request a variance as described in subsection C.~~

~~c. Appeal the findings as described in subsection D:~~

- ~~2. The program administrator with assistance from the appropriate regional office or chief shall develop a plan of action to correct all noncompliance findings. The plan of action shall be submitted to the appropriate regional administrator or chief within 15 days of receipt of the report of the team's findings. In exceptional situations, the certification unit manager may grant a 30-day extension to a program administrator for the development of an action plan.~~

Each certification audit report submitted to the board shall contain:

1. the program's name, administrator, sponsor, location and purpose;
2. a summary of the program's target audience; its relation to other entities in the community and in the juvenile justice system; and other information relevant to its operation;
3. the date of the certification audit and the names of the audit team members;
4. notation of all standards and policies for which non-compliance was found, including especially notation of any life, health or safety violations; a brief description of the circumstances, including extenuating and aggravating factors; and supplemented, when appropriate, with photographic evidence or other documentation;

~~4. Each plan of action shall identify:~~

~~a. The deficiency or deficiencies.~~

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~~b. The tasks required to correct each deficiency, including the steps necessary to prevent its recurrence.~~

~~c. The responsible agency and staff position, which may include the regional office.~~

~~d. The deadlines for the accomplishment of tasks.~~

5. for each deficiency cited, a plan of corrective action which states:

a. the action taken or required to correct the deficiency and prevent its recurrence;

b. the person or agency responsible for the action; and

c. the deadline for taking the action;

~~5. Acceptable plans of action. Within five working days of receipt the appropriate regional administrator or chief shall review and upon finding the plan acceptable, approve the plan of action and forward it to the certification unit manager. Within five working days the certification unit manager shall review, and forward the plan of action to the director or designee with recommendations regarding certification and recommendations to deny or approve variance requests. Within five working days the director or designee shall sign the plan of action indicating review and approval and return it to the certification unit for inclusion in the audit report to the board.~~

~~6. Unacceptable plans of action.~~

~~a. Regional office or appropriate chief level. Within five working days of receipt, the regional~~

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~~administrator shall review the plan of action and upon finding the plan unacceptable, return it to the program administrator with a cover letter clearly stating what areas are unacceptable and suggestions for appropriate corrective action. The program administrator shall have five working days in which to resubmit an acceptable action plan. If the resubmitted action plan is unacceptable, the appropriate regional administrator or chief shall forward it to the director or designee for referral to the board for action with a copy to the certification unit manager.~~

~~b. Certification unit level. If a plan of action approved by the appropriate regional administrator or chief is unacceptable to the certification unit manager, the certification unit manager within five working days shall return the plan of action to the appropriate regional administrator or chief with a cover letter clearly stating what areas are unacceptable and suggestions for appropriate corrective action. The appropriate regional administrator or chief shall return the plan of action to the program administrator within five working days for revision. If the program administrator fails to submit an acceptable action plan within five working days, or the appropriate regional administrator or chief does not agree with the certification unit manager, the matter shall be referred to the director or designee for a decision or referral to the board for action.~~

~~c. Director or designee level. If a plan of action is unacceptable to the director or designee, it shall be returned within five working days to the appropriate regional administrator or chief with a cover letter clearly stating what areas are unacceptable and suggestions for appropriate corrective action. The certification unit manager shall receive a copy. The appropriate regional administrator or chief shall then have three working days to return the plan of action to the program administrator for revision. The program administrator shall have five working days to~~

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~~resubmit an acceptable plan of action. If an acceptable plan of action is not submitted within the required time frame, the director or designee shall refer the matter to the board for action.~~

~~B. Failure to submit an acceptable action plan. When a program administrator fails to submit an acceptable plan of action within the time frame specified in subsection A, the department shall refer the matter to the Board of Youth and Family Services with recommendations for action.~~

~~C. 6 VAC 35-20-92. Variance request.~~

~~1. A variance may be requested, in those instances where a facility is unable to comply with a standard or a portion of a standard.~~

~~2. A Any request for a variance must be submitted in writing and shall state include:~~

- ~~a. the non-mandatory standard for which a variance is requested;~~
- ~~b. the justification for the request;~~
- ~~c. any actions taken to come into compliance;~~
- ~~d. the person and agency responsible for such action;~~
- ~~e. the date at which time compliance is expected; and~~
- ~~f. the specific ~~number of months~~ time period requested for this variance; and~~
- ~~g. a draft plan of corrective action describing how the program would meet the standard should the variance not be granted.~~

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The department's recommendation to the board as to the certification action to be taken shall address each of the program's variance requests.

~~3. Variance requests approved by the appropriate regional administrator or chief reviewed by the certification unit manager and approved by the director or designee shall be forwarded to the board for final approval. The board shall be made aware of any denied requests.~~

~~4. Should the program be subject to a compliance audit during the period of the variance, a copy of the approved variance shall be provided to the certification team during the on-site audit.~~

~~D.—6 VAC 35-20-94. Appeal process.~~

~~1. If an appeal of any audit findings is being made, the program administrator shall attach the appeal request to any plan of action and submit the appeal to Department personnel as designated in agency procedures within 30 days of written notification of the audit findings.~~

~~2. A plan to correct the deficiency should the appeal be denied shall be included in the plan of action.~~

~~3. Appeals shall be forwarded to the certification unit manager by the appropriate regional administrator or the chief along with the plan of action. The certification unit manager shall prepare a report on the appeal for review by the appropriate levels of appeal. The levels of appeal review are as follows:~~

~~a. The appropriate regional administrator or chief, upon review of plan of action, Department staff as designated in agency procedures shall make every effort to resolve the appeal with the~~

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program administrator within fifteen days of receiving the appeal. If the program administrator is not satisfied, ~~the appeal must be forwarded to the certification unit manager;~~ the program administrator may submit a written request to Department staff as designated in Department procedures within five days to have the matter reviewed by the Board of Juvenile Justice at its next scheduled meeting. The matter will be placed on the Board's agenda pursuant to timeframes adopted by the Board for submission of agenda items.

~~b. Chief of operations for information and evaluation;~~

~~c. Deputy director of administration and finance and the deputy director for programs;~~

~~d. Director for the Department of Youth and Family Services; and~~

~~e. Board of Youth and Family Services.~~

~~4. The certification unit manager shall distribute required documents within three working days of receipt of appeal documents. The administrators cited above shall complete required reviews or appeal decisions within five working days from receipt of the appeals.~~

~~5. Upon completion of each appeal level, the certification unit manager shall notify all parties involved of the appeal decisions within three workdays. The parties involved shall then have five working days from receipt of each decision notification to decide whether or not to appeal to the next level and to inform the certification unit manager of that decision in writing.~~

~~6. If the appeal is granted at the administrative level, the certification unit manager shall note this decision on the plan of action and the deficiency shall be removed from the audit report.~~

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~~E. Board review of audit report. The certification unit manager shall submit audit reports at the first regular board meeting which occurs 75 days or more after the audit. The board shall be notified of any extensions granted.~~

~~Audit reports shall be distributed to the regional offices, and to the appropriate chief, after official board action for distribution to the applicable programs.~~

~~Statutory Authority~~

~~6 VAC 35-20-100. Board certification action ~~on audit results.~~~~

~~A. The board may extend a current certification for a specified period of time, pending a certification audit and the completion of administrative reviews, provided the program meets all mandatory standards and the Board and the Department are not aware of any life, health or safety violations.~~

~~B. If a program's certification expires during a period when the Board does not meet, the program's current certification status shall continue in effect until the Board meets and takes certification action.~~

~~C. Once the board takes certification action, the board will issue a certificate or letter clearly identifying the program, the certification status, and the period of time during which the certification will be effective unless the certificate is revoked or surrendered sooner.~~

~~D. Based upon the certification audit report and supplementary information submitted by the department and the program, the board ~~shall make one of the following findings~~ will take~~

certification action in accordance with Table 1, below. Depending on the program's status as identified in Column I and the conditions described in Column II, the board will take the certification action listed in Column III.

E. TABLE 1. Certification Actions Available to the Board

I. Current Certification Status	II. Current program conditions as identified through the certification audit	III. Resulting Certification Action
<ul style="list-style-type: none"> • New Program 	<ul style="list-style-type: none"> • 100% compliance with all mandatory standards; AND • At least 90% compliance with all non-mandatory standards; AND • Has acceptable Plans of Action for all non-compliances • NO life, health or safety violations. 	Conditional Certification for up to 6 months
<ul style="list-style-type: none"> • Conditional Certificate • Probation 	<ul style="list-style-type: none"> • 100 % compliance with all mandatory standards; AND • At least 90% compliance with all other standards; AND • Has acceptable Plans of Action for all non-compliance; AND • NO life, health or safety violations; AND • No more than one systemic deficiency. 	One-year Certification
<ul style="list-style-type: none"> • One-year Certificate • Three-year Certificate 	<ul style="list-style-type: none"> • 100% compliance with all mandatory standards; AND • At least 95% compliance with all other standards, AND • Has acceptable Plans of Action for all non-compliance; AND • Has no life, health or safety violations; AND • Has no systemic deficiencies. 	Three-year Certification

(TABLE 1 continued on next page.)

TABLE 1 (Continued)

I. Current Certification Status	II. Current program conditions as identified through the certification audit	III. Resulting Certification Action
Any program	<ul style="list-style-type: none"> • Less than 100% compliance with all mandatory standards but has acceptable Plans of Action to address deficiencies; OR • Less than 90% compliance with all other standards; OR • Does not have acceptable plans of action for all non-compliance; OR • One or more life, health or safety violations; OR • Two or more systemic deficiencies. 	Probation for up to six months
Any program	<ul style="list-style-type: none"> • Less than 100% compliance with all mandatory standards without acceptable Plans of Action to address deficiencies; OR • Less than 90% compliance with all other standards AND does not have acceptable Plans of Action to address deficiencies; OR • The reasons cited in placing the program on probation or administrative probation have not been corrected to the point that the program would qualify for at least conditional certification. • The program's staff have (I) committed, permitted, aided or abetted any illegal act in the program; or (ii) violated child abuse or neglect laws; or (iii) deviated significantly from the program or services for which a certificate was issued without prior approval from the board; or (iv) failed to correct any such deviations within the time specified by the board; or (v) falsified records. 	Decertification or Denial of Certification (See COV § 16.1-309.9.B.)

1. The program is certified.

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~~2. The program is placed on probationary status.~~

~~3. The program is decertified (or not certified if a new program).~~

~~The board may also place a program on administrative probation in emergency situations or continue an administrative probation status initiated by the director.~~

6 VAC 35-20-110. Notice of ~~certification status~~ board action.

A. ~~Information regarding program status shall be made available to the appropriate departmental, state and local authorities~~ Within two weeks of ~~the board's actions~~ any certification action, a designated officer or agent of the board shall send formal notice of the board action to:

1. the program;

2. the program's sponsoring locality, commission or private operator, as applicable;

3. designated department personnel; and

4. other state and local authorities, as appropriate to the specific circumstances.

B. ~~Administrators shall receive notification of their program's certification status in the following manner:~~

~~1. A certificate shall be issued by the board to each certified program.~~

~~2. A letter shall be issued by the board to programs that are placed on probationary status or decertified.~~

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~~C. Public notice of certification status certificates and status letters shall be posted upon receipt~~

The program shall post the certificate or letter issued by the board in a conspicuous place in the facility or program offices where it is visible to the public.

C. All variances approved by the board shall be made available at the program site to certification audit teams and department personnel conducting on-site visits.

~~D. When a certifiable level of compliance is not achieved, the director or designee shall:~~

~~1. Notify the program administrator of the board's action and provide 15 days to respond in writing.~~

~~2. Send a copy of such notice to the person or entity authorized to take action.~~

~~6 VAC 35-20-120. Failure to achieve~~ Actions following decertification or denial of certification.

A. When a program operated by the Department fails to achieve is decertified or denied certification, the following actions may be taken in compliance with statutes, policies, and procedures established by the board, the department and other state or federal agencies.

1. Department administered. If the Department of Youth and Family Services administers the program, actions may include, but are not limited to, the following:

the program administrator will take whatever actions are necessary to qualify the program for at least a conditional certification within 90 days may reorganize the program, take necessary personnel actions and any other steps that will bring the program into compliance. If the program

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does not qualify for at least conditional certification within 90 days, the Department may choose to close the program. The procedure for such action shall be in compliance with all board, department, state and federal regulations, policies, or requirements of law. If after 90 days the program has not met the requirements for at least conditional certification and the Department has not closed the program, the Board shall recommend to the Governor and the Secretary of Public Safety appropriate action to be taken under the circumstances.

~~2. Locally or privately operated. If the~~ B. When a program that is locally, regionally or privately operated is decertified or denied certification, and affiliated with the board and the Department may take any and all the following of Youth and Family Services, actions may include, but are not limited to, the following: as appropriate to the circumstances:

a. ~~A recommendation may be made to the person or entity authorized to take action. The sponsor may be required to reorganize the program structure or take necessary personnel action or any other steps as may be necessary to bring qualify the program into compliance with standards-~~ for at least a conditional certification within 90 days; and

b. ~~The Director of the Department or the Board of Youth and Family Services may, as applicable, initiate proceedings, and under authority of §§16.1-311, reduce or suspend funding to the program in accordance with §§ 16.1-322.1 , 16.1-309.9 C., or through 16.1-322.3, and 66-30 of the Code of Virginia as well as any other applicable laws relating to child abuse to withdraw funding or to prohibit placement of children. or may withdraw the approval required by Code of Virginia Section 16.1-249 A (3) and (4); and~~

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c. The Board may enter an order, pursuant to Code of Virginia Section 16.1-309.9 B., prohibiting the placement of children in the program.

~~6 VAC 35-20-130. Grounds for decertification. [Repealed]~~

~~A. A facility or program may be decertified by the board at any time for the following reasons:~~

~~1. Staff of the facility or program have permitted, aided or abetted the commission of any illegal act in the facility or program;~~

~~2. Staff of the facility or program have engaged in conduct or practices which are in violation of statutes related to abuse or neglect of children;~~

~~3. Staff of the facility or program have deviated significantly from the program or services for which a certificate was issued without obtaining prior approval from the Board of Youth and Family Services, failing to correct such deviations within the time specified by the board, or both; or~~

~~4. Falsification of records.~~

~~B. If the program administrator wishes to appeal the decertification status, he shall forward the request to the appropriate regional administrator or chief for forwarding to the certification unit manager who shall, within five days, prepare a report on the appeal request at the first regularly scheduled board meeting following receipt by the board of the report from the certification unit manager.~~

~~C. A program or facility may also be placed on administrative probation at any time pending~~

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~~investigation of alleged occurrences of any or all of the items stated above, or in an emergency situation at the discretion of the director pending board approval at its next regularly scheduled meeting.~~

~~6 VAC 35-20-140. Newly adopted standards. [Repealed]~~

~~A. When standards are adopted for newly developed programs or when new standards are adopted for existing programs, the programs affected shall be held responsible for demonstrating compliance with the standards 90 days after the effective date of the new standards.~~

~~B. New programs to be certified under existing standards will undergo a preparatory audit by the regional office or staff of the appropriate chief within 90 days of accepting the first client (residential programs) or hiring of the director (nonresidential programs). A full audit by the certification unit staff will be conducted no more than six months after the preparatory audit.~~

APPENDIX TO REGULATIONS GOVERNING THE MONITORING, APPROVAL
AND CERTIFICATION OF JUVENILE JUSTICE PROGRAMS.

MANDATORY STANDARDS FOR JUVENILE RESIDENTIAL FACILITIES

The following standards, selected from among the regulations promulgated by the Board of Juvenile Justice, are designated as "mandatory" as defined in 6 VAC 35-20-10. Programs must be in 100% compliance with the following standards in order to be approved to operate. Failure to comply with these mandatory standards will result in enforcement actions in accordance with the Code of Virginia and as set forth in the foregoing Regulations Governing the Monitoring, Approval and Certification of Juvenile Justice Programs.

22 VAC 42-10-330. A.

The facility shall document at the time of its original application and annually thereafter that buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code.

22 VAC 42-10-330. E.

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Building plans and specifications for new construction, change in use of existing buildings, and any structural modifications or additions to existing buildings shall be submitted to and approved by the licensure or certification authority and by other appropriate regulatory authorities.

6 VAC 35-140-340. A.

There shall be a fire prevention plan that provides for an adequate fire protection service.

6 VAC 35-140-340. B.

The facility shall have receptacles for disposing of flammable materials.

6 VAC 35-140-340. C.

All flammable, toxic and caustic materials shall be stored and used in accord with federal, state and local requirements.

6 VAC 35-140-340. D.

Flame retardant and nontoxic materials shall be used in construction and furnishings.

22 VAC 42-10-970. A.

Written procedures shall be developed and implemented for responding to emergencies including, but not necessarily limited to:

1. severe weather;

2. loss of utilities;

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3. missing persons;

4. severe injury; and

5. emergency evacuation, including alternate housing.

22 VAC 42-10-970. B.

Written procedures shall address responsibilities of staff and residents regarding:

1. sounding of an alarm;

2. emergency evacuation including assembly points, head counts, primary and secondary means of egress, evacuation of children with special needs, and verifying complete evacuation of the buildings;

3. alerting emergency authorities; and

4. use of emergency equipment.

22 VAC 42-10-970. C.

Emergency procedures shall address the handling of residents with special needs.

22 VAC 42-10-970. D.

Floor plans showing primary and secondary means of egress shall be posted on each floor in locations where they can easily be seen by staff and residents.

22 VAC 42-10-970. E.

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The procedures and responsibilities reflected in the emergency procedures shall be communicated to all residents within seven days following admission or a substantive change in the procedures.

22 VAC 42-10-970. F.

The telephone numbers of the authorities to be called in case of an emergency shall be prominently posted on or next to each telephone.

22 VAC 42-10-970. G.

At least one evacuation drill (the simulation of the facility's emergency procedures) shall be conducted each month in each building occupied by residents.

22 VAC 42-10-970. H.

Evacuation drills shall include, at a minimum:

1. sounding of emergency alarms,
2. practice in evacuating buildings,
3. practice in alerting emergency authorities, and
4. simulated use of emergency equipment.

22 VAC 42-10-970. I.

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During any three consecutive calendar months, at least one evacuation drill shall be conducted during each shift.

22 VAC 42-10-970. J.

The facility shall assign at least one staff member responsibility for conducting and documenting evacuation drills.

22 VAC 42-10-970. K.

A record shall be maintained for each evacuation drill and shall include the:

1. buildings in which the drill was conducted;

2. date and time of drill;

3. amount of time to evacuate the buildings;

4. specific problems encountered;

5. staff tasks completed:

a. head count, and

b. practice in notifying emergency authorities;

6. summary; and

7. name of the staff members responsible for conducting and documenting the drill and preparing the record.

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22 VAC 42-10-970. L.

The record for each evacuation drill shall be retained for three years after the drill.

22 VAC 42-10-970. M.

The facility shall assign one staff member responsibility for the evacuation drill program at the facility who shall:

1. ensure that evacuation drills are conducted at the times and intervals required by these standards and the facility's emergency procedures;
2. review evacuation drill reports to identify problems in conducting the drills and in the implementing the requirements of the emergency procedures;
3. consult with the local emergency authorities, as needed, and plan, implement and document training or other actions taken to remedy any problems found in implementing the procedures;
and
4. consult and cooperate with local emergency authorities to plan and implement an educational program for facility staff and residents on topics in safety.

22 VAC 42-10-1000.A.

Each staff member shall be trained in fire procedures in accordance with the Virginia Statewide Fire Prevention Code.

22 VAC 42-10-1000.B.

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Each new staff member shall be trained in emergency and evacuation procedures and their implementation:

1. prior to working alone while supervising one or more children, and
2. within seven days of employment.

22 VAC 42-10-730. A.

Each resident shall be provided a daily diet which: (i) consists of at least three nutritionally balanced meals and an evening snack, (ii) includes an adequate variety and quantity of food for the age of the resident, and (iii) meets minimum nutritional requirements and the U.S. Dietary Guidelines....

22 VAC 42-10-730. C.

Special diets shall be provided when prescribed by a physician

22 VAC 42-10-330. B.

At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by state or local health authorities, whose inspection and approval shall include:

1. general sanitation;
2. the sewage disposal system;
3. the water supply;

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4. food service operations; and

5. swimming pools.

22 VAC 42-10-490. B.

Adequate provision shall be made for the collection and legal disposal of garbage and waste materials.

22 VAC 42-10-490.C.

Buildings shall be kept free of flies, roaches, rats and other vermin.

6 VAC 35-140-460.

A physician, health administrator or health agency shall be designated the health authority responsible for arranging all levels of health care, consistent with law and medical ethics.

22 VAC 42-10-300. A.

Services of a licensed physician shall be available for treatment of residents as needed.

22 VAC 42-10-300. B.

Each nurse shall hold a current nursing license issued by the Commonwealth of Virginia.

22 VAC 42-10-190. A.

The licensee or the regulatory authority may require a report of examination by a licensed

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physician or mental health professional when there are indications that an individual's physical, mental or emotional health may jeopardize the care of residents.

22 VAC 42-10-190. B.

An individual who is determined by a licensed physician or mental health professional, to shows an indication of a physical or mental condition which may jeopardize the safety of residents or which would prevent the performance of duties shall be removed immediately from contact with residents and food served to residents until the condition is cleared as evidenced by a signed statement from the physician or mental health professional.

22 VAC 42-10-720. A.

All medication shall be securely locked and properly labeled.

22 VAC 42-10-720. B.

All staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications.

22 VAC 42-10-720. C.

Medication shall be administered only by staff authorized to do so by the director.

22 VAC 42-10-720. D.

Staff authorized to administer medication shall be informed of any known side effects of the

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medication and the symptoms of the effects.

22 VAC 42-10-720. E.

A program of medication shall be initiated for a resident only when prescribed in writing by a licensed physician.

22 VAC 42-10-720. F.

Medication prescribed by a licensed physician shall be administered as prescribed.

22 VAC 42-10-720. G.

A daily log shall be maintained of all medicines received by each resident and shall identify the individual who administered the medication.

22 VAC 42-10-720. H.

In the event of a medication error or an adverse drug reaction, first aid shall be administered if indicated. Staff shall promptly contact a poison control center, pharmacist, nurse, or physician and shall take actions as directed. If the situation is not addressed in standing orders, the attending physician shall be notified as soon as possible and the actions taken by staff shall be documented.

22 VAC 42-10-720. I.

The telephone number of a Regional Poison Control Center shall be posted on or next to each nonpay telephone that has access to an outside line in each building in which children sleep or

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participate in programs.

22 VAC 42-10-720. J.

At least one unexpired 30 cc bottle of Syrup of Ipecac and one unexpired container of activated charcoal shall be available on the premises of the facility for use at the direction of the Poison Control Center or physician and shall be kept locked when not in use.

22 VAC 42-10-720. K.

Syringes and other medical implements used for injecting or cutting skin shall be locked.

6 VAC 35-140-190.

Written policy, procedure and practice shall require that:

1. To prevent newly-arrived residents who pose a health or safety threat to themselves or others from being admitted to the general population, all residents shall immediately upon admission undergo a preliminary health screening consisting of a structured interview and observation by health care personnel or health-trained staff, using a health screening form that has been approved by the facility's health authority.

2. Youth admitted to the facility who pose a health or safety threat to themselves or others are not admitted to the facility's general population but provision shall be made for them to receive comparable services.

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3. Immediate health care is provided to residents who need it.

22 VAC 42-10-700. A.

The facility shall have and implement written procedures promptly for:

1. providing or arranging for the provision of medical and dental services for health problems identified at admission;
2. providing or arranging for the provision of routine ongoing and follow-up medical and dental services after admission;
3. providing emergency services for each resident as provided by statute or by the agreement with the resident's legal guardian, and
4. providing emergency services for any resident experiencing or showing signs of suicidal or homicidal thoughts, symptoms of mood or thought disorders, or other mental health problems.

22 VAC 42-10-700.B.

Written information concerning each resident shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. name, address, and telephone number of the physician and dentist to be notified;
2. name, address, and telephone number of relative or other person to be notified;
3. medical insurance company name and policy number or Medicaid number;

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4. information concerning:

a. use of medication;

b. medication allergies;

c. substance abuse; and

d. significant past or present medical problems; and

5. written permission for emergency medical care, dental care, and obtaining immunizations or a procedure and contacts for obtaining consent; and

6. Subsections B 3 and 5 do not apply to secure detention facilities except when a resident is confined in detention with a suspended commitment to the Department of Juvenile Justice.

22 VAC 42-10-300.C.

At all times that children are present there shall be at least one responsible adult on the premises who has received within the past three years a basic certificate in standard first aid issued by the American Red Cross or other recognized authority for each 16 children or portion thereof on the premises. Each nurse on the premises who holds a current nursing license issued by the Commonwealth of Virginia may be considered to hold a current certificate in first aid.

22 VAC 42-10-300.D.

At all times that children are present there shall be at least one responsible adult on the premises who has a current certificate in cardiopulmonary resuscitation issued by the American Red Cross

or other recognized authority for each 16 children or portion thereof on the premises.

22 VAC 42-10-710. B.

Each resident's record shall include written documentation of: (i) the initial physical examination, (ii) an annual physical examination by a licensed physician including any recommendation for follow up care, and (iii) documentation of the provision of follow-up medical care recommended by the physician or as indicated by the needs of the resident.

22 VAC 42-10-710. C.

Each physical examination report shall include:

1. information necessary to determine the health and immunization needs of the resident,

including:;

a. immunizations administered, vision exam;

b. hearing exam;

c. general physical condition, including documentation of apparent freedom from communicable disease including tuberculosis;

d. allergies, chronic conditions, and handicaps, if any;

e. nutritional requirements, including special diets, if any;

f. restrictions on physical activities, if any; and

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g. recommendations for further treatment, immunizations, and other examinations indicated;

2. date of the physical examination; and

3. signature of a licensed physician, the physician's designee, or an official of a local health department.

22 VAC 42-10-710.D.

A child with a communicable disease shall not be admitted unless a licensed physician certifies that:

1. the facility is capable of providing care to the child without jeopardizing residents and staff; and

2. the facility is aware of the required treatment for the child and the procedures to protect residents and staff.

The requirements of this subsection D shall not apply to temporary emergency shelters and secure detention.

22 VAC 42-10-710.E.

Each resident's record shall include written documentation of: (i) an annual examination by a licensed dentist; and (ii) documentation of follow-up dental care recommended by the dentist or as indicated by the needs of the resident. This requirement does not apply to: (i) secure detention facilities, (ii) temporary care facilities, and (iii) respite care facilities.

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22 VAC 42-10-710.F.

Each resident's record shall include notations of health and dental complaints and injuries and shall summarize symptoms and treatment given.

22 VAC 42-10-710.G.

Each resident's record shall include, or document the facility's efforts to obtain, treatment summaries of ongoing psychiatric or other mental health treatment and reports, if applicable.

This requirement does not apply to secure detention facilities except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice.

22 VAC 42-10-710.H.

Written policies and procedures, which include use of universal precautions, shall be developed and implemented to address communicable and contagious medical conditions.

22 VAC 42-10-710.I

A well stocked first-aid kit shall be maintained and readily accessible for minor injuries and medical emergencies.